

SOUTHERN ENVIRONMENTAL LAW CENTER

THE CANDLER BUILDING
127 PEACHTREE STREET, SUITE 605
ATLANTA, GA 30303-1800

Telephone 404-521-9900
Facsimile 404-521-9909
selcga@selcga.org

Charlottesville, VA
Chapel Hill, NC
Atlanta, GA

July 17, 2009

U.S. Environmental Protection Agency
Region 4 Freedom of Information
SNAFC Bldg, 61 Forsyth Street, S.W., 9th Floor
Atlanta, GA 30303-8960

VIA U.S. Mail and FACSIMILE: (404) 562-8054

CENTRAL NO. 44111

RECEIVED DATE: 8/17/09

RECEIVED BY: Other

APPROVED	SESD
SPJ	cc EAD
WILD	OTHER

Special Instructions:

Re: Freedom of Information Act Request - Glades Reservoir

Dear FOIA Officer:

Under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended, the Southern Environmental Law Center ("SELC") requests all documents in the possession or control of the U.S. Environmental Protection Agency ("EPA") that relate to Glades Reservoir, which is to be located approximately 12 miles northeast of Gainesville in Hall County, Georgia (the "Reservoir"). It is our understanding that the proposed project would include the construction of an 850-foot long dam across Flat Creek, resulting in an 850-acre reservoir pool. We are requesting all documents related to the Reservoir, including but not limited to:

- All documents related to the application for a Clean Water Act Section 404 permit for the Reservoir;
- All correspondence relating to the Reservoir, including communications between EPA, the Corps, Hall County, the Section 404 permit applicant, any of these parties' representatives or consultants, and any other agency, company, or person involved in the Reservoir project;
- All EPA records and all field notes to any site inspections made for the Reservoir; and
- Any photographic analyses, including any photographs, maps, or drawings, that may have been prepared for the Reservoir.

For the purposes of this request, the term "documents" includes all written, printed, recorded or electronic: materials, communications, correspondence, memoranda, notations, copies, diagrams, charts, maps, photographs, tables, spreadsheets, formulas, directives, observations, impressions, contracts, letters, messages and mail in the possession or control of the Environmental Protection Agency.

FOIA directs a responding agency to make a "determination" on any request within twenty (20) working days of receipt. See 5 U.S.C. § 552(a)(6)(A)(i). FOIA also requires the release of all reasonably segregable portions of a document that are themselves not exempt. 5 U.S.C. § 552(b). Should our requests be denied, we request that you inform us of the grounds for denial and the specific administrative appeal rights which are available. See 5 U.S.C. § 552(a)(6)(A)(i).

SELC is requesting photocopies without charge, or at a reduced charge, because reduction or waiver of fees would be in the public interest. A disclosure is in the public interest if (1) it is likely to contribute significantly to public understanding of the operations or activities of the government, and (2) it is not primarily in the commercial interest of the requester. The public interest standard of the fee waiver provision of the FOIA should be "liberally construed" in favor of waivers. McClellan Ecological Seepage Situation v. Carlucci, 835 F.2d 1282, 1284 (9th Cir. 1987); Pederson v. Resolution Trust Corp., 847 F. Supp. 851, 855 (D.Colo.1994); Etlinger v. FBI, 596 F. Supp 867, 872 (D. Mass. 1984). The goal of the statute is to avoid the "roadblocks and technicalities which have been used by various Federal agencies to deny waivers...." Pederson, 847 F. Supp. at 855.

SELC is a 501(c)(3) non-profit organization with over 20 years of experience disseminating public information regarding EPA regulatory and operations issues. See 5 U.S.C. § 552 (a)(4)(A)(iii). SELC maintains a website that includes both general and topic-specific information regarding the matters with which SELC is involved. For example, SELC frequently publishes reports and issues press releases regarding its projects (See e.g., "Where are We Growing: Land Use and Transportation in the Greater Richmond Area," http://www.southernenvironment.org/cases/vdot_reform/richmond_report.pdf). Lawyers at SELC are interviewed by the media to explain their work and its significance. (See e.g., "Judge Halts Landing Field," Raleigh News and Observer, February 19, 2005, <http://www.newsobserver.com/news/growth/story/2140513p-8522056c.html>). SELC's website contains documents generated by SELC for the specific purpose of educating the public on particular issues. (See e.g., "Smart Mobility Report: Review of Tri-County Parkway Location Study," http://www.southernenvironment.org/neweroom/publications/smart_mobility_tri_county.pdf). SELC also assists the public in locating information relating to a particular topic by collecting and posting relevant information, documents, and links to other websites.

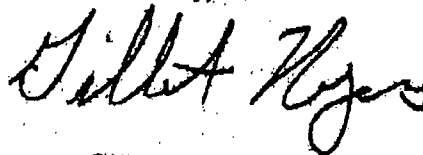
All of this information is available for free to any interested member of the public. SELC staff members also educate the public by speaking at conferences and other public meetings about environmental and natural resource issues in the Southeast. A fee waiver

clearly will benefit the general public through increased notice and understanding of the operations of the government and of potential or proposed major policy incentives. SELC further certifies that disclosure of the information sought is not primarily in the commercial interest of the requester.

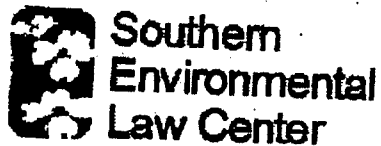
Should SELC's request for reduced or waived fees be denied, SELC is prepared to bear the reasonable duplication and search costs necessary to fulfill this request. However, I request you contact me before processing this request if the fee is expected to be in excess of \$50. SELC reserves its right to appeal a fee waiver or reduction denial.

If you have any questions regarding this request, please feel free to call me at 404-521-9900. Thank you for your prompt attention to this matter. We look forward to receiving the public records requested.

Sincerely,

A handwritten signature in black ink, appearing to read "Gilbert Rogers", with a stylized flourish at the end.

Gilbert B. Rogers
Senior Attorney



The Candler Building
127 Peachtree Street, Suite 605
Atlanta, GA 30303-1840
404-521-9900
Fax 404-521-9909
SouthernEnvironmental.org

FAX COVER SHEET

DATE: July 17, 2009 TIME: 4:48 PM
TO: U.S. EPA, Region 4 Freedom of Information
FAX NUMBER: 404-562-8054
FROM: Gilbert Rogers
RE: Freedom of Information Act Request — Glades Reservoir
Total number of pages (including cover sheet): 4
MESSAGE: Please see the attached FOIA Request.

**IF YOU HAVE RECEIVED THIS FAX IN ERROR, OR IF YOU ENCOUNTER PROBLEMS
IN RECEIVING THIS TRANSMISSION, PLEASE CALL US IMMEDIATELY AT 404/521-
9909.**

Carolina's Office: 200 West Franklin Street, Suite 330, Chapel Hill, NC 27516-2559 919/967-1450
Deep South Office: The Candler Building, 127 Peachtree Street, Suite 605, Atlanta, GA 30303-1800 404/521-9900



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
1200 Pennsylvania Avenue, NW (2822T)
WASHINGTON, DC 20460

July 28, 2009

Mr. Gilbert B. Rogers
Southern Environmental Law Center
127 Peachtree St., Suite 605
The Candler Building
Atlanta, GA , 30303-1800
United States

RE: Request No. 04-RIN-00617-09

Dear Mr. Rogers:

This is in response to your Freedom of Information Act (FOIA) request, 5 U.S.C. 552 seeking records related to all environmental documentation that relates to Glades Reservoir, Gainesville, Georgia and for a waiver of fees in connection with that request.

The FOIA directs agencies to furnish records without any charge or at a reduced charge if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. 5 U.S.C. 552(a)(4)(A)(iii)(1994 & Supp. IV 1998).

Requests for fee waivers must be considered **on a case-by-case basis** and address the requirements for a fee waiver in sufficient detail for the agencies to make an informed decision. In determining whether the statutory requirements are met, agencies must consider six factors in sequence. These factors are summarized below.

1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government. A request for access to records for their informational content alone does not satisfy this factor.
2. For the disclosure to be "likely to contribute" to an understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.

3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requester or a narrow segment of interested persons. One's status as a representative of the news media alone is not enough.
4. The disclosure must contribute "significantly" to public understanding of government operations or activities.
5. The extent to which disclosure will serve the requester's commercial interest, if any.
6. The extent to which the identified public interest in the disclosure outweighs the requester's commercial interest.

Should you wish to receive a fee waiver, you must address, in sufficient detail, these six factors. You may send your response by email to hq.foia@epa.gov, or by facsimile to this office (202) 566-2147. If we do not hear from you within 7 days from the date of this letter, we will deny your request for a waiver of fees based on insufficient justification. Records will be sent if you have provided assurance of payment should fees exceed \$25.00.

If you have any questions, please contact the Requester Service Center at hq.foia@epa.gov, or call 202-566-1667.

Sincerely,

Larry F. Gottesman
National FOIA Officer



Request No. 04-RIN-00617-09
Gabrielle Dean to: FOIA HQ

07/31/2009 11:47 AM

Dear Mr. Gottesman:

Attached please find a letter responding your request for additional information in support of our fee waiver request. A hard copy will follow in the U.S. Mail.

Thank you for your attention to this matter.

Sincerely,

Gabrielle Dean

Gabrielle N. K. Dean, Legal Assistant to Gil Rogers
Southern Environmental Law Center
Georgia/Alabama Office
The Candler Building
127 Peachtree St. Suite 605
Atlanta, GA 30303-1840
Phone: (404) 521-9900
Fax: (404) 521-9909

AUG - 3 2009



<http://www.SouthernEnvironment.org> 7.31.09 Ltr to LGottesman re fee waiver justification.pdf

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Chapel Hill, NC
Atlanta, GA

July 31, 2009

Via Electronic Mail (hq.foia@epa.gov) and U.S. Mail

Larry F. Gottesman
National FOIA Officer
U. S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

AUG - 3 2009

Re: Request No. 04-RIN-00617-09

Dear Mr. Gottesman:

This is in response to your July 28th request to provide more information regarding our request for a fee waiver in the above-referenced matter.

One of the primary focus areas of the Southern Environmental Law Center ("SELC") is water policy throughout the Southeast, which often involves examining proposed new water supplies. This reservoir is similar to others about which information currently appears on our website, such as http://www.southernenvironment.org/cases/king_william_reservoir_va. In addition, we have participated in numerous public conferences and other events in which we discuss water supply from an educational standpoint. These include the Georgia Water Resources Conference, the Alabama Water Resources Conference, and the Georgia State Bar Environmental Conference. For many of these events, SELC has published articles, presentations, and other informational documents for the public's benefit. All of these public education discussions about water supplies have included material on reservoirs and the reservoir permitting process.

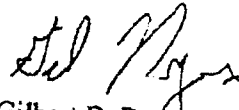
We are specifically interested in information about Glades Farm Reservoir to make sure that this reservoir is the most cost-effective and least environmentally damaging alternative to providing water supply. The public will benefit from the information we gather and disseminate by being better equipped to make an informed decision about how and where to obtain water supplies.

As stated in our previous letter, SELC is a 501(c)(3) non-profit organization with no commercial interest in the disclosure of the requested information.

Mr. Larry Gottesman
July 31, 2009
Page 2

Thank you for your prompt attention to this matter. We look forward to receiving the public records requested. If you have any other questions regarding this request, please feel free to call me at (404) 521-9900.

Sincerely,

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Gilbert B. Rogers
Senior Attorney

GBR/gnd

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AUG 10 2009

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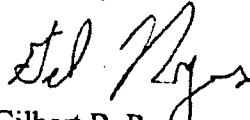
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Senior Attorney

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C

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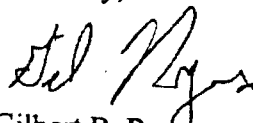
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Gilbert B. Rogers
Senior Attorney

GBR/gnd



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

August 11, 2009

Mr. Gilbert B. Rogers
Senior Attorney
Southern Environmental Law Center
The Candler Building
127 Peachtree Street, Suite 605
Atlanta, GA 30303-1800

OFFICE OF
ENVIRONMENTAL INFORMATION

RE: Request Number: 04-RIN-00617-09

Dear Mr. Rogers:

This is in response to your request for a waiver of fees for the processing of your Freedom of Information Act (FOIA), 5 U.S.C. 552 request seeking all documents that relate to Glades Reservoir located in Hall County, Georgia.

We have reviewed your fee waiver justification letter, and based on the information provided, we are denying your request for a fee waiver. You have failed to demonstrate how the release of the information requested will significantly increase the public's understanding of government operations or activities.

Under the FOIA, you have the right to appeal my fee waiver denial determination to the National Freedom of Information Office, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, NW, (2822T), Washington, DC 20460 (U.S. Postal Service Only), FAX: (202) 566-2147, E-mail: hq.foia@epa.gov. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, NW. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, DC 20004. Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The appeal letter should include the RIN listed above. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal."

If you have any questions concerning this please contact me at (202) 566-1667.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry F. Gottesman", is written over a circular stamp or seal.

Larry F. Gottesman
National FOIA Officer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

August 11, 2009

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